

SECOND DIVISION

[G.R. No. 120098, October 02, 2001]

RUBY L. TSAI, PETITIONER, VS. HON. COURT OF APPEALS, EVER TEXTILE MILLS, INC. AND MAMERTO R. VILLALUZ, RESPONDENTS.

[G.R. NO. 120109. OCTOBER 2, 2001]

PHILIPPINE BANK OF COMMUNICATIONS, PETITIONER, VS. HON. COURT OF APPEALS, EVER TEXTILE MILLS AND MAMERTO R. VILLALUZ, RESPONDENTS.

D E C I S I O N

QUISUMBING, J.:

These consolidated cases assail the decision^[1] of the Court of Appeals in CA-G.R. CV No. 32986, affirming the decision^[2] of the Regional Trial Court of Manila, Branch 7, in Civil Case No. 89-48265. Also assailed is respondent court's resolution denying petitioners' motion for reconsideration.

On November 26, 1975, respondent Ever Textile Mills, Inc. (EVERTEX) obtained a three million peso (P3,000,000.00) loan from petitioner Philippine Bank of Communications (PCom). As security for the loan, EVERTEX executed in favor of PCom, a deed of Real and Chattel Mortgage over the lot under TCT No. 372097, where its factory stands, and the chattels located therein as enumerated in a schedule attached to the mortgage contract. The pertinent portions of the Real and Chattel Mortgage are quoted below:

MORTGAGE

(REAL AND CHATTEL)

xxx

The MORTGAGOR(S) hereby transfer(s) and convey(s), by way of First Mortgage, to the MORTGAGEE, xxx certain parcel(s) of land, together with all the buildings and improvements now existing or which may hereafter exist thereon, situated in xxx.

"Annex A"

(Real and Chattel Mortgage executed by Ever Textile Mills in favor of PCommunications - continued)

LIST OF MACHINERIES & EQUIPMENT

- A. Forty Eight (48) units of Vayrow Knitting Machines-Tompkins made in Hongkong:

Serial Numbers

Size of Machines

xxx

- B. Sixteen (16) sets of Vayrow Knitting Machines made in Taiwan.

xxx

- C. Two (2) Circular Knitting Machines made in West Germany.

xxx

- D. Four (4) Winding Machines.

xxx

SCHEDULE "A"

- I. TCT # 372097 - RIZAL

xxx

- II. Any and all buildings and improvements now existing or hereafter to exist on the above-mentioned lot.

- III. MACHINERIES & EQUIPMENT situated, located and/or installed on the above-mentioned lot located at xxx

- (a) Forty eight sets (48)

Vayrow Knitting
Machines xxx

- (b) Sixteen sets (16)

Vayrow Knitting
Machines xxx

- (c) Two (2) Circular Knitting

Machines xxx

- (d) Two (2) Winding

Machines xxx

- (e) Two (2) Winding

Machines xxx

- IV Any and all replacements, substitutions, additions, increases and accretions to above properties.

xxx^[3]

On April 23, 1979, PBCom granted a second loan of P3,356,000.00 to EVERTEX. The loan was secured by a Chattel Mortgage over personal properties enumerated in a list attached thereto. These listed properties were similar to those listed in **Annex A** of the first mortgage deed.

After April 23, 1979, the date of the execution of the second mortgage mentioned above, EVERTEX purchased various machines and equipments.

On November 19, 1982, due to business reverses, EVERTEX filed insolvency proceedings docketed as SP Proc. No. LP-3091-P before the defunct Court of First Instance of Pasay City, Branch XXVIII. The CFI issued an order on November 24, 1982 declaring the corporation insolvent. All its assets were taken into the custody of the Insolvency Court, including the collateral, real and personal, securing the two mortgages as abovementioned.

In the meantime, upon EVERTEX's failure to meet its obligation to PBCom, the latter commenced extrajudicial foreclosure proceedings against EVERTEX under Act 3135, otherwise known as "An Act to Regulate the Sale of Property under Special Powers Inserted in or Annexed to Real Estate Mortgages" and Act 1506 or "The Chattel Mortgage Law". A Notice of Sheriff's Sale was issued on December 1, 1982.

On December 15, 1982, the first public auction was held where petitioner PBCom emerged as the highest bidder and a Certificate of Sale was issued in its favor on the same date. On December 23, 1982, another public auction was held and again, PBCom was the highest bidder. The sheriff issued a Certificate of Sale on the same day.

On March 7, 1984, PBCom consolidated its ownership over the lot and all the properties in it. In November 1986, it leased the entire factory premises to petitioner Ruby L. Tsai for P50,000.00 a month. On May 3, 1988, PBCom sold the factory, lock, stock and barrel to Tsai for P9,000,000.00, including the contested machineries.

On March 16, 1989, EVERTEX filed a complaint for annulment of sale, reconveyance, and damages with the Regional Trial Court against PBCom, alleging *inter alia* that the extrajudicial foreclosure of subject mortgage was in violation of the Insolvency Law. EVERTEX claimed that no rights having been transmitted to PBCom over the assets of insolvent EVERTEX, therefore Tsai acquired no rights over such assets sold to her, and should reconvey the assets.

Further, EVERTEX averred that PBCom, without any legal or factual basis, appropriated the contested properties, which were not included in the Real and Chattel Mortgage of November 26, 1975 nor in the Chattel Mortgage of April 23, 1979, and neither were those properties included in the Notice of Sheriff's Sale dated December 1, 1982 and Certificate of Sale dated December 15, 1982.

The disputed properties, which were valued at P4,000,000.00, are: 14 Interlock Circular Knitting Machines, 1 Jet Drying Equipment, 1 Dryer Equipment, 1 Raisin Equipment and 1 Heatset Equipment.

The RTC found that the lease and sale of said personal properties were irregular and illegal because they were not duly foreclosed nor sold at the December 15, 1982 auction sale since these were not included in the schedules attached to the mortgage contracts. The trial court decreed:

WHEREFORE, judgment is hereby rendered in favor of plaintiff corporation and against the defendants:

1. Ordering the annulment of the sale executed by defendant Philippine

Bank of Communications in favor of defendant Ruby L. Tsai on May 3, 1988 insofar as it affects the personal properties listed in par. 9 of the complaint, and their return to the plaintiff corporation through its assignee, plaintiff Mamerto R. Villaluz, for disposition by the Insolvency Court, to be done within ten (10) days from finality of this decision;

2. Ordering the defendants to pay jointly and severally the plaintiff corporation the sum of P5,200,000.00 as compensation for the use and possession of the properties in question from November 1986 to February 1991 and P100,000.00 every month thereafter, with interest thereon at the legal rate per annum until full payment;

3. Ordering the defendants to pay jointly and severally the plaintiff corporation the sum of P50,000.00 as and for attorney's fees and expenses of litigation;

4. Ordering the defendants to pay jointly and severally the plaintiff corporation the sum of P200,000.00 by way of exemplary damages;

5. Ordering the dismissal of the counterclaim of the defendants; and

6. Ordering the defendants to proportionately pay the costs of suit.

SO ORDERED.^[4]

Dissatisfied, both PBCom and Tsai appealed to the Court of Appeals, which issued its decision dated August 31, 1994, the dispositive portion of which reads:

WHEREFORE, except for the deletion therefrom of the award for exemplary damages, and reduction of the actual damages, from P100,000.00 to P20,000.00 per month, from November 1986 until subject personal properties are restored to appellees, the judgment appealed from is hereby AFFIRMED, in all other respects. No pronouncement as to costs.^[5]

Motion for reconsideration of the above decision having been denied in the resolution of April 28, 1995, PBCom and Tsai filed their separate petitions for review with this Court.

In G.R. No. 120098, petitioner Tsai ascribed the following errors to the respondent court:

I

THE HONORABLE COURT OF APPEALS (SECOND DIVISION) ERRED IN EFFECT MAKING A CONTRACT FOR THE PARTIES BY TREATING THE 1981 ACQUIRED MACHINERIES AS CHATTELS INSTEAD OF REAL PROPERTIES WITHIN THEIR EARLIER 1975 DEED OF REAL AND CHATTEL MORTGAGE

OR 1979 DEED OF CHATTEL MORTGAGE.

II

THE HONORABLE COURT OF APPEALS (SECOND DIVISION) ERRED IN HOLDING THAT THE DISPUTED 1981 MACHINERIES ARE NOT REAL PROPERTIES DEEMED PART OF THE MORTGAGE - DESPITE THE CLEAR IMPORT OF THE EVIDENCE AND APPLICABLE RULINGS OF THE SUPREME COURT.

III

THE HONORABLE COURT OF APPEALS (SECOND DIVISION) ERRED IN DEEMING PETITIONER A PURCHASER IN BAD FAITH.

IV

THE HONORABLE COURT OF APPEALS (SECOND DIVISION) ERRED IN ASSESSING PETITIONER ACTUAL DAMAGES, ATTORNEY'S FEES AND EXPENSES OF LITIGATION - FOR WANT OF VALID FACTUAL AND LEGAL BASIS.

V

THE HONORABLE COURT OF APPEALS (SECOND DIVISION) ERRED IN HOLDING AGAINST PETITIONER'S ARGUMENTS ON PRESCRIPTION AND LACHES.^[6]

In G.R. No. 120109, PBCOM raised the following issues:

I.

DID THE COURT OF APPEALS VALIDLY DECREE THE MACHINERIES LISTED UNDER PARAGRAPH 9 OF THE COMPLAINT BELOW AS PERSONAL PROPERTY OUTSIDE OF THE 1975 DEED OF REAL ESTATE MORTGAGE AND EXCLUDED THEM FROM THE REAL PROPERTY EXTRAJUDICIALLY FORECLOSED BY PBCOM DESPITE THE PROVISION IN THE 1975 DEED THAT ALL AFTER-ACQUIRED PROPERTIES DURING THE LIFETIME OF THE MORTGAGE SHALL FORM PART THEREOF, AND DESPITE THE UNDISPUTED FACT THAT SAID MACHINERIES ARE BIG AND HEAVY, BOLTED OR CEMENTED ON THE REAL PROPERTY MORTGAGED BY EVER TEXTILE MILLS TO PBCOM, AND WERE ASSESSED FOR REAL ESTATE TAX PURPOSES?

II.

CAN PBCOM, WHO TOOK POSSESSION OF THE MACHINERIES IN QUESTION IN GOOD FAITH, EXTENDED CREDIT FACILITIES TO EVER TEXTILE MILLS WHICH AS OF 1982 TOTALLED P9,547,095.28, WHO HAD SPENT FOR MAINTENANCE AND SECURITY ON THE DISPUTED